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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
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8 GUSTAVO ALVIZAR,

9 Plaintiff

10 v.

11 NDOC,

12 Defendant
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Case No. 2:23-cv-02063-RFB-MDC

ORDER

15 Plaintiff previously filed an application to proceed *in forma pauperis* and submitted a civil
16 rights complaint under 42 U.S.C. § 1983. (ECF Nos. 1, 1-1). The Court has not yet screened the
17 complaint. Plaintiff now files an emergency motion to withdraw complaint because he understands
18 that he filed his complaint prematurely. (ECF No. 7). The Court construes the motion as a motion
19 for voluntary dismissal. Under Federal Rule of Civil Procedure 41(a)(1), a plaintiff may dismiss
20 an action without a court order by filing “a notice of dismissal before the opposing party serves
21 either an answer or a motion for summary judgment.” Fed. R. Civ. P. 41(a)(1)(A)(i). The Court
22 grants Plaintiff’s motion to voluntarily dismiss this action because no responsive pleading has been
23 filed in this case. As such, the Court dismisses this action without prejudice.

24 For the foregoing reasons, **IT IS ORDERED** that the emergency motion to withdraw
25 complaint (ECF No. 7) is construed as a motion for voluntary dismissal and **GRANTED**.

26 **IT IS FURTHER ORDERED** that this action is dismissed in its entirety without
27 prejudice.

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1 **IT IS FURTHER ORDERED** that the Clerk of the Court will close the case.

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3 **DATED:** April 15, 2024.

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE